United Nations S/PV.8381

# Security Council

Seventy-third year

Provisional

**8381** st meeting

Wednesday, 24 October 2018, 3 p.m.

New York

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| *President:* | Mr. Llorentty Soliz | (Bolivia (Plurinational State of)) |
| *Members:* | China | Mr. Ma Zhaoxu |
| | Côte d'Ivoire | Mr. Adom |
| | Equatorial Guinea | Mr. Ndong Mba |
| | Ethiopia | Mr. Amde |
| | France | Mr. Delattre |
| | Kazakhstan | Mr. Tumysh |
| | Kuwait | Mr. Almunayekh |
| | Netherlands | Mrs. Gregoire Van Haaren |
| | Peru | Mr. Meza-Cuadra |
| | Poland | Ms. Wronecka |
| | Russian Federation | Mr. Nebenzia |
| | Sweden | Mr. Skoog |
| | United Kingdom of Great Britain and Northern Ireland | Ms. Pierce |
| | United States of America | Mrs. Haley |

## Agenda

The situation in Myanmar

Letter dated 16 October 2018 from the representatives of Côte d'Ivoire, France, Kuwait, the Netherlands, Peru, Poland, Sweden, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the President of the Security Council (S/2018/926)

Letter dated 18 October 2018 from the Permanent Representatives of Bolivia (Plurinational State of), China, Equatorial Guinea and the Russian Federation to the United Nations addressed to the President of the Security Council (S/2018/938)

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*The meeting was called to order at 3.05 p.m.*

**Adoption of the agenda**

**The President** (*spoke in Spanish*): The representative of China has asked for the floor.

**Mr. Ma Zhaoxu** (China) (*spoke in Chinese*): On 18 October, the Plurinational State of Bolivia, China, the Russian Federation and Equatorial Guinea sent a letter to the President of the Security Council (S/2018/938) expressing their opposition to holding this Council meeting to hear a briefing by the Chairperson of the independent international fact-finding mission on Myanmar established by the Human Rights Council.

The Charter of the United Nations clearly defines the responsibilities of the principal United Nations organs and the division of labour between them. The primary responsibility of the Security Council is the maintenance of international peace and security. It should not get involved in country-specific human rights issues. The fact-finding mission on Myanmar is a special mechanism of the Human Rights Council and does not have a mandate to brief the Security Council. Nor is there a precedent for the Security Council to receive a briefing from a country-specific special mechanism of the Human Rights Council. By receiving a briefing from the Fact-Finding Mission, the Security Council will encroach on the mandates of the General Assembly and the Human Rights Council, violate provisions of the Charter and weaken the responsibilities and roles of various United Nations bodies, thereby leading to grave negative consequences.When it comes to the issue of Rakhine state, the Security Council should play a constructive role, and any action it takes should help to resolve the issue. Pushing for a briefing by the Human Rights Council's fact-finding mission in the Security Council will disrupt and undermine the ongoing dialogue process. It does not help to resolve the issue of Rakhine state but will rather further complicate it, running counter to the process of finding a settlement. That is why we are opposed to having this meeting and hearing this briefing.

**The President** (*spoke in Spanish*): The representative of the United Kingdom has asked for the floor.

**Ms. Pierce** (United Kingdom): I understand that the Russian Ambassador may also want to speak, so I am happy for him to proceed, if he would like to. I shall speak after him.

**The President** (*spoke in Spanish*): The representative of the Russian Federation has asked for the floor.

**Mr. Nebenzia** (Russian Federation) (*spoke in Russian*): We wanted to explain our position regarding the proposal of some Council members to hear a briefing to the Security Council on the report of the Chairperson of the independent international fact-finding mission on Myanmar (A/HRC/39/64). We believe that this decision would be a mistake and would create a negative precedent for the future work of the Security Council.

As for the joint letter to the President of the Security Council from nine Member States (S/2018/926) requesting the holding of this briefing, in our view its very form is what might be termed an innovation in the work of the Security Council. To say it like it is, this is nothing but arm-twisting, in which the authors of the letter show the rest of us that the potential result of a procedural vote on it is for all practical purposes predetermined. We believe that the delegations that signed the letter are consciously torpedoing the possibility of consensus in the Security Council. The value of the Council's collective work lies in the unanimity of its decisions. Instead of undertaking a joint quest to find a long-term solution to the problem of the Rohingya refugees, therefore, these members are forcing the Council to engage in loudspeaker diplomacy.

The United States delegation, which actively supported the holding of today's briefing by issuing an invitation to the Human Rights Council briefer, recently announced that it was leaving the Human Rights Council and accompanied the announcement with a good deal of criticism of it. But now it turns out that the Human Rights Council is useful after all. Is this not clearly a double standard?

We believe that the work of the fact-finding mission on Myanmar is harmful and counterproductive. It does not have reliable information on what is going on with the Rohingya, as our and other experts said yesterday in a dialogue with the fact-finding mission in the Third Committee. In view of the foregoing, therefore, we believe that the report of the Mission is underprepared and one-sided, and the notion of chucking its so-called conclusions at the Security Council is overtly pernicious. Furthermore, since the report has already been discussed both in the Human Rights Council and the Third Committee, we see no added value in considering it here in the Security Council. That is, if

we want to avoid the duplication of the efforts of the principal organs of the United Nations in deeds rather than words. We also believe that discussing the report in the Council could cast doubt on the remit of the Human Rights Council, to which the Mission is accountable.

We would once again like to stress that the key to resolving the problem of the Rohingya refugees is in bilateral cooperation between Myanmar and Bangladesh. The role of the international community consists in providing assistance to Naypyidaw and Dhaka in implementing the existing agreements.

In the light of this, we will vote against holding the proposed briefing to discuss the conclusions of the fact-finding mission on Myanmar, and we call on other delegations to do the same.

**Ms. Pierce** (United Kingdom): I would like to make a statement on behalf of the United Kingdom, Côte d'Ivoire, France, Kuwait, the Netherlands, Peru, Poland, Sweden and the United States of America.

Mr. President, we have read carefully the letter that you and other colleagues sent on 18 October (S/2018/938). We have requested the Chair of the United Nations fact-finding mission on Myanmar to brief us today. The report produced by the Mission (A/HRC/39/64) is the most authoritative and comprehensive account of the human rights violations that have occurred in the country since 2011. It details in particular the events that took place in Rakhine state on and around 25 August 2017 and led to the forcible displacement of more than 725,000 refugees across an international border into Bangladesh.

As we will hear, the Fact-Finding Mission's findings are of the gravest nature. The report concludes that "gross human rights violations" and "serious violations of international humanitarian law" have been committed in Myanmar since 2011 and that many of these violations "undoubtedly amount to the gravest crimes under international law".

It makes a specific recommendation to the Security Council to ensure accountability for crimes under international law committed in Myanmar. Ensuring the prevention of such crimes — genocide, war crimes and crimes against humanity — is one of the reasons why the United Nations and the Security Council were established in the first place. As members of the Security Council, we are today faced with a situation that clearly endangers international peace and security, and also a specific request for the Council to act.

It is therefore absolutely without doubt the Security Council's responsibility to hear the allegations concerning the gravest crimes under international law related to the situation and to deliberate on how to proceed, and so we vote in favour of holding this meeting.

**The President** (*spoke in Spanish*): I wish to draw the attention of Council members to document S/2018/926, which contains a letter dated 16 October 2018 from the Representatives of Côte d'Ivoire, France, Kuwait, the Netherlands, Peru, Poland, Sweden, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the President of the Security Council, and document S/2018/938, which contains a letter dated 18 October 2018 from the Permanent Representatives of the Plurinational State of Bolivia, China, Equatorial Guinea and the Russian Federation to the United Nations addressed to the President of the Security Council.

In the light of the views expressed in documents S/2018/926 and S/2018/938 and the comments made by members of the Security Council, I intend to put the provisional agenda to the vote.

Accordingly, I shall put it to the vote now.

*A vote was taken by show of hands.*

*In favour*:

Côte d'Ivoire, France, Kuwait, Netherlands, Peru, Poland, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America

*Against*:

Plurinational State of Bolivia, China, Russian Federation

*Abstaining*:

Equatorial Guinea, Ethiopia, Kazakhstan

**The President** (*spoke in Spanish*): The provisional agenda received 9 votes in favour, 3 votes against and 3 abstentions. The provisional agenda has been adopted.

I now give the floor to members wishing to make statements following the voting.

I shall now make a statement in my capacity as the representative of the Plurinational State of Bolivia.

Bolivia voted against the holding of this meeting because there is no precedent of a special mechanism of the Human Rights Council on a specific country reporting to the Security Council on its activities without mentioning the fact that such report is no part of the mandate of the fact-finding mission in question.

The Charter of the United Nations clearly establishes the functions of and the division of labour among all the principal organs of our Organization. It is therefore important to respect the mandates of each organ in order to avoid any overlapping, duplication, interference with or weakening of the work being done in these bodies, be it the General Assembly, the Human Rights Council, the Economic and Social Council or the Security Council. With that understanding, the Charter establishes in unequivocal terms that the primary responsibility of the Security Council is the maintenance of international peace and security. This is therefore not the place to deal with human rights issues, as such issues have their own space for debate, study and discussion within the relevant specialized body, the Human Rights Council. This does not in any way detract from the seriousness of the issue at stake or the importance of dealing with it in the appropriate forums.

I now resume my functions as President of the Security Council.

As the provisional agenda has been adopted, I will now suspend the meeting for a brief recess, after which we will continue our consideration of the item on our agenda.

*The meeting was suspended at 3.20 p.m. and resumed at 3.25 p.m.*

*The agenda was adopted.*

**The situation in Myanmar**

**The President** (*spoke in Spanish*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representatives of Bangladesh and Myanmar to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Mr. Marzuki Darusman, Chairperson of the independent international fact-finding mission on Myanmar, to participate in this meeting.

The Council will now begin its consideration of the item on its agenda.

I now give the floor to Mr. Darusman.

**Mr. Darusman**: On behalf of the independent international fact-finding mission on Myanmar, I thank you, Mr. President, for this timely opportunity to brief the Security Council.

The Council is aware of our recent report to the Human Rights Council (A/HRC/39/64), including our detailed findings of 444 pages, establishing the facts and circumstances of recent alleged human rights violations and abuses in Myanmar, which are based on an investigation that scrupulously adhered to international best practices on human rights fact-finding. We worked for over a year to collect and corroborate information, weighing its validity and analysing it against applicable law in a spirit of objectivity and impartiality. We invite anyone who claims that our report is one-sided or based on a single source to read its 444 pages, including a full account of our methodology.

Our report characterizes the recent events in Rakhine state as a human rights catastrophe that was foreseeable and planned. It will have a severe impact for many generations to come, if not forever. The report describes in detail the Tatmadaw's so-called clearance operations in six villages, marked by large-scale massacres and other killings of civilians, including women, children and the elderly, as well as mass gang-rape, burning and looting.

The Mission verified similar operations in 54 separate locations across northern Rakhine state. Over 725,000 Rohingya fled. At least 392 villages were partially or totally destroyed. Estimates of 10,000 Rohingya deaths are conservative. Those attacks were widespread and systematic, their modus operandi across northern Rakhine state strikingly similar. While the attacks of the Arakan Rohingya Salvation Army contributed to the escalation and must be condemned, the operations of the security forces were brutal and utterly disproportionate. They were conducted in total disregard for human life and dignity, in violation of human rights and international humanitarian law.

That occurred against a backdrop of State policies and practices implemented over decades, steadily marginalizing and dehumanizing the Rohingya — resulting in a State-sanctioned and institutionalized system of oppression affecting the lives of Rohingya from birth to death. Similar clearance operations, albeit on a smaller scale, began in October 2016, with complete impunity. The following months

were marked by increased intimidation of the Rohingya, a surge in hate speech, instilling fear into other ethnic communities, and the mobilization of troops and other military assets into northern Rakhine state. The nature, scale and organization of those events demonstrate preparation and planning.

The mass displacement of the Rohingya and the burning of villages were followed by the appropriation of vacated lands. Entire villages were flattened and erased, along with every trace of the Rohingya communities. New structures were built for other communities, while the root causes of the exodus, including the oppression and exclusionary rhetoric, are being denied and continue unabated. The remaining Rohingya in Rakhine state are at grave risk, and conditions are not in place for a safe, dignified and sustainable return of the Rohingya in Bangladesh. Their return in this situation is tantamount to condemning them to life as subhumans and further mass killing.

Although horrific and intense, the situation of the Rohingya must not be seen in isolation. The Mission found similar patterns of serious human rights violations elsewhere in Myanmar, notably in Kachin and Shan states. They were predominantly committed by the Myanmar military following the same policies, tactics and conduct. In those conflict areas, we also found patterns of deliberate targeting of civilians, unlawful killings, torture, rape and sexual violence, arbitrary deprivation of liberty, forced labour and forced displacement.

Many of the serious violations described in our report undoubtedly amount to the most serious crimes of concern to the international community, which threaten the peace, security and well-being of the world. War crimes and crimes against humanity have been committed in Kachin, Shan and Rakhine states. The mission also found sufficient information to warrant the investigation and prosecution of senior officials in the Tatmadaw on charges of genocide. That means that we consider that genocidal intent — meaning the intent to destroy the Rohingya in whole or in part — can be reasonably inferred.

At the core of this situation sits the Myanmar military, which has pursued these strategies and tactics for decades. The Tatmadaw, consistently and as a matter of policy and tactics, targets civilians and rapes women and girls. It actively pursues an exclusionary and discriminatory vision for the country. It has a clear chain of command, with those in leadership positions in effective control of its operations. It acts with total impunity. The contempt shown by the Tatmadaw for human life, integrity and freedom, and for international law generally, has had a devastating impact on the human rights, security and development of everyone in Myanmar. It is also a threat to regional stability and international peace and security.

The Security Council holds the power to break that cycle. The key is a sharp focus on accountability. Apart from accountability for atrocity crimes being a legal and moral obligation, we submit that there are at least three other compelling reasons for such a focus.

First, effective prevention is premised on accountability. A history of atrocity crimes combined with impunity and weak State institutions is a core risk factor for further violations. Sadly, that toxic mix has persisted in Myanmar for a long time. Impunity for gross human rights violations has demonstrably contributed to the validation of deeply oppressive and discriminatory conduct, enabled the recurrence of atrocity crimes, emboldened the perpetrators and silenced the victims. Unless that impunity is addressed, violence and associated atrocity crimes will continue and recur.

Secondly, without accountability there can be no sustainable, safe and dignified return of the Rohingya to Myanmar. How can the Rohingya be expected to return to Myanmar, where their suffering is denied and the perpetrators enjoy complete impunity? Can we reasonably expect them to rely for their protection on the same unaccountable security forces who killed, raped and devastated their communities?

Thirdly, there can be no just and lasting reconciliation without accountability. The complex issues of citizenship, deep-rooted discrimination, oppression and distrust between communities cannot be overcome without a human rights and rule-of-law-based approach. Impunity is the antithesis of that. We firmly believe that accountability will pave the way towards stability, development and peace and security for all in Myanmar.

Unfortunately, accountability in Myanmar must come from the international community. Impunity is deeply entrenched in Myanmar's political and legal system, effectively placing the Tatmadaw above the law. Myanmar's internal inquiries have proven to be ineffective failures, with no reason to consider that that

will change in the foreseeable future. Even if domestic leaders were well-intentioned, accountability at the national level is currently unattainable. The Security Council must refer the situation in Myanmar to the International Criminal Court or another international ad hoc tribunal.

The Council and its individual members should also impose targeted individual sanctions against those most responsible for serious crimes under international law. In our report, we identified six of the Tatmadaw's most senior generals with command responsibility for the clearance operations in Rakhine state, starting with the Commander-in-Chief of the Myanmar Armed Forces, Senior General Min Aung Hlaing. They must cease to benefit from all international support, both institutionally and personally. That includes an arms embargo on Myanmar and a prohibition of all transactions with Tatmadaw-affiliated enterprises.

We also call for the Council's support for a comprehensive independent inquiry into the United Nations involvement in Myanmar since 2011. No organization involved in a catastrophe of these proportions should fail to review its engagement and learn lessons for future prevention. The review should include the performance of United Nations organs, agencies, departments, funds and programmes under all three pillars — development, human rights and peace and security. In addressing and preventing human rights violations, the United Nations succeeds or fails in relation to all of those three pillars collectively.

If anyone were to seek to deliberately foment conflict and extremism, the events in Myanmar could serve as a step-by-step manual. Dehumanizing a population, calling them all terrorists, depriving them of all rights, segregating and attacking them, raping and killing them, crowding them into internally displaced persons camps or driving them out and protecting the killers from justice — those steps can be, and almost certainly will be, learned and deployed in other countries against other populations.

The international community must be gravely concerned. Myanmar presents precisely the kind of threat to peace and security that the United Nations — particularly the Council — was created to address. We urge the Council to take action. Decisive action is needed to halt the destructive dynamics in Myanmar and prevent the further fomenting of hatred, hostility, discrimination and extremism that will inevitably lead to further devastation. Impunity must not be excused and continue to embolden the Tatmadaw in its promotion of Bamar-Buddhist supremacy. National sovereignty is not a license to commit crimes against humanity or genocide.

There can be no moving on from this crisis without addressing its root causes, all of which continue to exist today, and primarily the presence of an unaccountable military that acts with complete impunity. The Rohingya and all of Myanmar's people — in fact the entire world — is looking to the Council to take action.

**The President** (*spoke in Spanish*): I thank Mr. Darusman for the information he provided.

I shall now give the floor to those members of the Council who wish to make statements.

**Ms. Pierce** (United Kingdom): I thank the Chairperson of the independent international fact-finding mission on Myanmar for that compelling, shocking and moving briefing.

As I said on behalf of the nine Council members that called for this meeting, the briefing we heard today concerns allegations of the gravest crimes against international law: genocide, war crimes and crimes against humanity. On this day in 1945, the United Nations came into being. We agree with the Chairperson: What is the United Nations for, and what is the Security Council for, if they cannot deal with some of the worst things that a Government can do to its own people? The Security Council has a solemn responsibility to consider those matters and decide how to proceed. Despite the objections of some Council members today, we believe that it is right that this meeting is taking place, and I will include in my remarks what should happen, in our view, after this meeting. I want to draw out two points in the mission's report (A/HRC/39/64) and Mr. Darusman's briefing today.

First, I will address the situation in Rakhine, which is an enduring catastrophe. Human rights violations against the people of Rakhine, ethnic Rakhine as well as Rohingya, continue to this day. The Rohingya in particular continue to face daily intimidation; restrictions on their freedom of movement, access to markets, education and health care; continued discrimination; and denial of their right to citizenship.

As the Chairperson said, the Rohingya Muslims who are left behind in Rakhine are not safe, and cannot be safe. And the Rohingya who are in the camps

in Bangladesh cannot go home until those matters are addressed. Although the Burmese authorities have previously claimed that 81 out of the 88 recommendations of the Annan Advisory Commission on Rakhine State have been implemented, there is very little evidence that sincere efforts have been made to address the acute deprivation of human rights, which lies at the root cause of that crisis.

Although we previously welcomed the signing of the memorandum of understanding among the Government, the Office of the United Nations High Commissioner for Refugees and the United Nations Development Programme, those United Nations agencies continue to be denied access to large parts of Rakhine. The conditions for the safe, voluntary and dignified repatriation are manifestly not in place. Any calls for immediate repatriation in the current circumstances are deeply irresponsible. We first need to see the Burmese Government cooperate fully with the United Nations and make genuine progress to change the situation, in line with the Annan Commission recommendations.

In the meantime, the United Kingdom commends the Government and the people of Bangladesh for continuing to show great generosity, host the refugee population and cooperate in good faith with the Burmese Government. The needs of the refugees continue to be great, including protection, legal status and assistance, and we call on the international community to intensify its support for the United Nations joint response plan.

Secondly, Rakhine is the most egregious example of the conduct of the Burmese military, but it is not the only one. The report makes clear that the Burmese military is conducting human rights violations across the country against other ethnic communities, most notably in Kachin and Shan states. Accountability is vital to get justice for the Rohingya and others who have suffered. It is necessary to give the Rohingya confidence that they can return to Myanmar/Burma. But, fundamentally, it is necessary in order to prevent the Burmese military from committing those same crimes again and again against the people of Myanmar.

It is vital that the Council act to uphold the Charter of the United Nations, and I take very seriously what the Chairperson said about the need to send a signal from the Council to other countries around the world, the Governments of which may be tempted to take a leaf out of the Burmese military's horrific playbook and execute such crimes on their own people.

Myanmar/Burma has established a domestic commission of inquiry. We note the Fact-Finding Mission's conclusion that that commission cannot provide a real avenue for accountability. We note also the six generals, whom the report mentions, with command responsibility, starting with the Senior General. We note, too, that previous commissions of inquiries have been whitewashed and they have preserved the military's long-standing impunity. The Government has repeatedly denied the crimes described to us today, and it has locked up journalists who have exposed Government wrongdoing, most notably the two Reuters journalists, Wa Lone and Kyaw Soe Oo. I repeat the United Kingdom's call for their immediate release.

If there is to be any faith in this commission of inquiry — this latest commission of inquiry — it should be independent, report transparently on its progress, operate according to international standards, as the fact-finding mission itself did, and cooperate with other bodies gathering evidence, such as the fact-finding mission and the ongoing independent mechanism that the Human Rights Council voted earlier this month to establish. We have repeatedly asked the Burmese Government to work closely with the High Commissioner for Human Rights, and the findings of the commission of inquiry should lead to an independent judicial process, where all, including the military, are equal before the law. Otherwise, if there is not going to be domestic accountability in Burma, then the United Kingdom believes that we must consider all options, including a referral to the International Criminal Court or an ad hoc tribunal.

I never thought, in my diplomatic career, that I would hear a briefing to the Security Council as compelling, but detailing such awful treatment of a people, as we have heard today. The crimes that we have heard echo those committed in Rwanda and Srebrenica approximately 20 years ago. The Security Council acted in those two situations. It acted too late to prevent them, which is to our lasting shame, but it did act to ensure that accountability was brought to bear on those responsible.

As the Chairperson said, national sovereignty is not a license to commit crimes against humanity. It is not a license to wreak such havoc on the livelihoods and lives of one's own people. The United Kingdom now plans to work with our partners to press for progress in creating the conditions so that the refugees can return, but also so that we can have accountability that genuinely ends

the Burmese military's impunity. In the face of the acts we heard described today, we believe that this is a responsibility that the Security Council owes not just to the Rohingya or the peoples of Burma, but to people everywhere around the world.

**Mrs. Gregoire Van Haaren** (Netherlands):

> "I was eight months pregnant. They stomped me and kicked my stomach with their boots, and then they stripped me naked. I was blindfolded and hung by my wrists from a tree. I was raped nine times, and they left me tied to the tree.

That is but one of the many horrendous accounts of Rohingya survivors, as reported by the independent international fact-finding mission on Myanmar. Those stories shock our collective conscience and implore us to act.

Let me take this opportunity to thank Mr. Darusman for his impressing and sobering briefing to us today, as well as for his efforts in delivering a substantive report. It is important that the Council hear directly from relevant human rights bodies, as the Security Council has the authority to refer situations to the International Criminal Court. Many issues deserve our urgent attention, such as the lack of access to Rakhine state, the need to create an environment conducive to repatriation through the implementation of the recommendations of the Advisory Commission on Rakhine State, formerly led by Kofi Annan, and the fate of the detained Reuters journalists.

Today, however, I will focus on accountability and make three points: first, on the findings of the independent international fact-finding mission on Myanmar established by the Human Rights Council; secondly, on the road to accountability; and, thirdly, onthe urgent need to respond.

The report of the fact-finding mission (A/HRC/39/64) is deeply worrying. It has based its findings on 875 in-depth interviews with victims and eyewitnesses that show the same clear pattern of conduct by the military, border guard police and vigilantes. Its analysis shows convincingly that the gravest crimes under international law have been committed in Rakhine state. The mission furthermore concludes that, on reasonable grounds, the factors allowing the inference of genocidal intent are present and that the crimes committed against the Rohingya may even amount to genocide. The report stresses the need for a competent court of law to determine whether specific individuals are guilty of those crimes. Those findings cannot simply be taken note of and then set aside. They implore the international community to act.

That brings me to my second point — the need to ensure accountability for those crimes. The fact-finding mission's report highlights the urgent need for prosecutions for the gravest crimes under international law and to hold those responsible to account. Justice for the victims is an end in and of itself, but it is also an essential prerequisite to prevent it from happening again. Decades of discrimination against the Rohingya, followed by complete inaction, have brought us to this point. We cannot afford to respond with inaction once again and allow the repetition of those gruesome acts, either in Rakhine state or across other parts of Myanmar where the same perpetrators are targeting other minorities. We can see that happening now in Kachin and Shan states.

A meaningful effort towards ensuring accountability can also be a means to ensure that the Rohingya feel safe enough to voluntarily return to their places of origin in Myanmar. We would like to be hopeful about the national commission of inquiry. The Myanmar Government, however, in the past has repeatedly failed to genuinely prosecute the perpetrators of human right violations. We recall the fact-finding mission's conclusion that it is unlikely that Myanmar's judiciary can deliver on a fair and independent trial. In order to make that happen, we need to step up international involvement. The creation of the independent mechanism by the Human Rights Council is a crucial first step to enable future prosecutions. Preserving evidence is key, and we strongly urge the Myanmar authorities to cooperate with the independent mechanism and all other human rights mechanisms. Still, holding the perpetrators accountable for the most serious crimes is beyond their mandate. The International Criminal Court was created exactly for that purpose.

That brings me to my final point — the urgent need to respond. Coordinated action by the Security Council, including through presidential statement S/PRST/2017/22 of November 2017 and our visit to Myanmar and Bangladesh in April, have resulted in incremental change for the better. However, the pace has been slow. The Council has engaged constructively with the Myanmar Government but needs to conclude that this approach has yielded minimal results. We cannot allow Myanmar to play for time while the fate

of the Rohingya remains unchanged. The international community cannot rely on the generous hospitality of Bangladesh forever.

The findings of the fact-finding mission demand action not only from the Human Rights Council, the General Assembly or the Special Envoy. It is time that the Council shoulder its responsibility. We need to refer the situation in Myanmar to the International Criminal Court and use all tools available to us to create meaningful change on the ground, including targeted sanctions and an arms embargo. Much remains to be done to ensure that the Rohingya can safely return to their country and continue to live their lives in safety and freedom in Myanmar, as they deserve. Myanmar needs to show progress. The time to act is now.

**Mrs. Haley** (United States of America): I want to especially thank Mr. Darusman, Chairperson of the independent international fact-finding mission on myanmar established by the Human Rights Council. It is critically important that he be with us in the Security Council today for this briefing. One question that I would like to ask him at some point — or when we can get an answer — is: What is the status of the quality of life for the Rohingya who remain in Burma? What is the Government doing to protect them to make sure that this does not happen to them, as well?

United States President John Adams famously said that facts are stubborn things. Nowhere is this more true than the facts of the atrocities committed by the Burmese security forces against Rohingya children, women and men. The last time that the Security Council met to consider the situation in Burma (see S/PV.8333), I discussed the United States State Department's report on the ethnic cleansing of the Rohingya at the hands of these security forces. The accounts were first-hand and the details were stomach-turning, including women and girls raped, villages razed and babies tossed into fires.

Today, the source of the information is the United Nations fact-finding mission. The Government of Burma unfortunately refused to cooperate with the mission. The events reported by the fact-finding mission parallel those of the United States State Department report. Once again, we are hearing about torture, mutilation, repeated massacres, gang rapes and the obliteration of entire villages — all perpetrated against the Rohingya minority by the Burmese security forces. And once again, there are those in this Chamber who have repeatedly attempted to block the Security Council and the world from hearing about what is happening to the Rohingya in Burma. But facts are stubborn things, and, despite the best efforts of the Burmese Government and its allies, the awful facts of the atrocities against the Rohingya cannot be avoided by those who deny them.

I want to thank the members of the Security Council that voted for this briefing and this meeting to be transparent. I also want to address the concerns of some members of the Security Council that feel that transparency about the crimes detailed in the report (A/HRC/39/64) will somehow set back the cause of peace in Burma. They argue that being open and honest about the vicious treatment of the Rohingya will increase the Burmese people's resentment of them. They argue that what is needed in Burma is time and space. We do not accept this logic. In fact, not only is it wrong, but its backward. Time and space alone will not heal the wounds that have been opened in Burma, and covering up the crimes of the Burmese military and security forces will not allow that country to move forward. Only accountability for the crimes against the Rohingya will serve the cause of peace and Burma.

This is not about finger-pointing. It is about accepting the realities of what happened so that healing and accountability can occur. We have all heard the excuses offered by those who have fought this briefing. They argued that the Security Council is not the appropriate place to discuss those atrocities. Our work, they say, is peace and security, not human rights, but the forcible movement of more than 700,000 people across borders is undeniably a matter of international peace and security. — just ask the Bangladeshi Government or the Rohingya themselves.

We are grateful to the Government of Bangladesh for its generosity hosting a total of more than 1 million Rohingya refugees, but this is not just Bangladesh's problem. This is the region's problem. This is our problem. All of us — the United States, the United Kingdom, France, Côte d'Ivoire, Kuwait, the Netherlands, Peru, Poland and Sweden — have worked closely to keep the Security Council's continued spotlight on the horrible atrocities in Burma. We will work to hold the Burmese security forces accountable. Now is the time to move on from focusing on the abuses to focusing on the abused.

Despite the security forces' claims to be acting against "terrorists", the root cause of the crisis is the second-class status of the Rohingya in Burma.

In addition to the atrocities they have suffered, the fact-finding mission's report details the systematic repression of the Rohingya by the Government of Burma. As noted during the briefing, security forces have detained Rohingya men and abducted Rohingya women. The Rohingya were subject to especially tight restrictions on freedom of movement, as well as freedom of religion. Some refugees have reported that the military threatened those who prayed — even at home — with beatings, arrests and death. They also detailed cases of the military's desecration of sacred texts, and some saw soldiers burning and urinating on copies of the Qur'an. It is the Burmese Government that has both the power and the moral obligation to end that.

The burden falls on it. Restrictions imposed upon the Rohingya, including on freedom of movement and religion, must end. The Burmese Government must create a direct and credible path to obtaining citizenship for ethnic Rohingya. The Burmese military must accept civilian rule. Its refusal to do so puts Burma at further risk of conflict and stunts its growth as a modern nation. As the world rightly condemns the murder of a journalist in Turkey, we must not forget the outrageous imprisonment of the Reuters journalists in Burma. The United States continues to call for their immediate release. There must be accountability for the crimes of the Burmese military and security forces — crimes that have been thoroughly and credibly documented. And the same energy that has been put into fearing and isolating the Rohingya should be put towards educating and training them so that they can lead productive lives, for their families and for the future of Burma.

Thanks to the work of the fact-finding mission, we all know what was done to the Rohingya and we know who is responsible. We must now take the next steps to ensure that this never happens again. Justice is due for the people who fled Burma in fear. Justice is due for those whose lives have been forever transformed by violence. Justice — not vengeance, not payback — is necessary for Burma to heal. The United States will continue to issue the call for justice, here and elsewhere, until all of the people of Burma are able to live in safety and dignity in their own country. That is the case for justice in Burma.

Before I end my remarks, I would like to say a final thing about how we do our jobs here at United Nations. There are many ways we can choose to make our arguments to each other and the world. We can be civil or we can be uncivil. We can choose to make a scene or we can choose to treat the issues we care about with dignity and respect. We are all aware — and none more so than you, Mr. President — of the way discussions of justice and human rights have been conducted in recent days, and especially your behaviour, that of your mission and of the Cuban mission. It was a very poor reflection on the President of the Security Council. We are grateful that this afternoon, at least, you have chosen the path of civility and respect.

**Mr. Delattre** (France) (*spoke in French*): I would like to begin by warmly thanking Mr. Marzuki Darusman, Chairperson of the independent international fact-finding mission on Myanmar, for his chilling and insightful briefing and more broadly for the outstanding work that his team has carried out, professionally and independently, in difficult conditions. The 875 interviews conducted, along with the variety of information sources used, attest to the solidity of the work that he has done. Let me also take the opportunity to emphasize the importance for the Security Council to continue to rely upon the work of the instruments established by the Human Rights Council in order to fully carry out its mandate to maintain international peace and security.

Since the violence of August 2017, France has consistently underlined its concern and called for the mobilization of the Security Council in response to what President Macron, echoing the High Commissioner for Human Rights, has described since September 2017 as "ethnic cleansing". France is extremely concerned about the findings of the fact-finding mission's report (A/HRC/39/64), according to which charges of genocide, crimes against humanity and war crimes — committed in particular against the Rohingya in Rakhine state but also in Kachin and Shan states — could be brought against the Burmese army and security forces. The fact-finding mission's report concludes in paragraph 85 that on the basis of "reasonable inference", there are factors "that have allowed genocidal intent to be established ". It also notes that attacks and sexual violence committed by the Burmese army in villages, including against children, constitute serious violations of international humanitarian law that may constitute war crimes.

Establishing the facts is essential if justice is to one day be done and to enabling genuine reconciliation. And the facts that have been presented to us, along with their merciless premeditation, amount to the highest level of severity within the scale of international crimes. The Security Council cannot turn a blind

eye to those facts, unless it relinquishes its own responsibilities and renounces its very raison d'être. If the Security Council feels that such a situation does not concern it, what situation would? Let us also be aware that our action or inaction in response to the tragedy is being closely watched by all those who could commit comparable atrocities. This means that our collective responsibility is imperative, now and in the future. May Mr. Darusman's message and warning be clearly heard by all.

The sentencing on 3 September of two Reuters journalists to seven years in prison by the Burmese courts, while they were preparing a report on the serious allegations of human rights violations in the Rakhine state, is the latest example of the climate of fear that hinders the investigative efforts on the ground. It constitutes a serious violation of the freedom of the press. On behalf of France, I reiterate the call for the release of those two journalists.

In that context, and in accordance with the presidential statement adopted by the Council almost a year ago (S/PRST/2017/22), we must remain mobilized around three main and complementary priorities.

The first is humanitarian support for the Rohingyas who remain in Rakhine state and to refugees in the camps in Bangladesh. In Burma, the tripartite agreement concluded in June by the Burmese authorities, the Office of the United Nations High Commissioner for Refugees and the United Nations Development Programme was an important step, but its implementation by the Burmese authorities must be significantly accelerated. The restoration of unhindered humanitarian access to all affected villages in Rakhine state is urgent to meet the needs of the population. It is also urgent for the displaced Rohingya people in Rakhine state to regain full freedom of movement and access to basic services. In Bangladesh, we reiterate our appreciation for the exceptional generosity of the authorities and the people, and for the outstanding work being carried out by United Nations agencies and humanitarian organizations. As long as the conditions for their voluntary, dignified and sustainable return are not met, international assistance will remain essential to supporting Rohingya refugees living in extremely precarious conditions.

The second priority is the effective implementation of the recommendations of the Advisory Commission on Rakhine State, formerly led by Kofi Annan, for which we have been calling for more than a year. The Commission proposed a road map, which the Burmese Government has accepted and the Security Council has endorsed, to enable all the people of Rakhine state to live together in peace. France reiterates in particular the importance of the recommendations on the question of citizenship and the revision of the 1982 law, as well as equal rights, including the right of access to public services, health care and education for all persons belonging to the Rohingya community.

The report contains other very relevant recommendations on the freedom of movement, the socioeconomic development of the Arakan and the fight against discrimination against all minorities that, if effectively implemented, would constitute important confidence-building measures allowing for the voluntary return of refugees in accordance with international law. Through that, what is at stake is the possibility of a stable, inclusive and democratic rule of law in Burma, governed by a civilian power and based on the equal recognition and citizenship of all, without distinction.

Finally, the third priority, which is inseparable from the first two, is the fight against impunity. We call on the international community to identify all the consequences of the conclusions of the fact-finding mission. The decision of the Pre-Trial Chamber of the International Criminal Court (ICC) on 6 September, which concluded that the Court has jurisdiction over the alleged deportation of Rohingya from Burma to Bangladesh, is an important step in the fight against impunity. We welcome the decision of the Court's Prosecutor, Ms. Fatou Bensouda, to open a preliminary review of the allegations and reiterate our full support for the Prosecutor and the ICC in their ongoing work.

The decision of the Human Rights Council to establish an independent and permanent investigative mechanism is also a very important step. France calls on all States and regional and international bodies to support the rapid operationalization of that mechanism, which will allow for the collection and preservation of evidence concerning all allegations of crimes committed in Burma. We call on all States to cooperate with the ICC and the mechanism. The evidence collected will be used in proceedings before competent national or international jurisdictions. Finally, we call on the Burmese commission of inquiry to cooperate with all United Nations bodies and mandate-holders.

The situation of extreme distress of the Rohingya population is a crushing blow to the human conscience and violates all the norms and values that inspire and form the basis of the United Nations. That is why we must step up our efforts and our collective commitment to shedding light on the crimes that have been committed in order for justice to be done and for the Rohingyas who wish to return to Burma to do so in dignified, safe and sustainable conditions. The United Nations has a vital role to play, and we recall in that regard our support for the Special Envoy of the Secretary-General. France will continue to be actively engaged with respect to this major crisis and stands ready to consider all the options available to the Council to contribute to a lasting solution.

**Mr. Almunayekh** (Kuwait) (*spoke in Arabic*): At the outset, I would like to express our appreciation and thanks to the Chairperson of the independent international fact-finding mission on Myanmar, Mr. Marzuki Darusman, for attending this meeting and for his comprehensive briefing. The efforts of the fact-finding mission are indeed appreciated. We thank him for his honesty in presenting the facts to the international community.

What we have listened to today in the briefing of the fact-finding mission reaffirms the conclusions of the international community on the crimes that have been committed. The briefing was totally consistent with what we witnessed during the Security Council visit to Rakhine state and what we heard from eyewitnesses to those crimes during our meetings with the Rohingya refugees at the Cox's Bazar camps. While we strongly condemn the acts witnessed in Rakhine state, which run counter to international norms and laws, we reaffirm the need for the Government of Myanmar to assume its primary responsibility to protect its citizens and ensure that military force will not be used against them.

More than 14 months have elapsed since violence erupted in Rakhine state. Those acts of violence led to the displacement of more than 720,000 people to Cox's Bazar in Bangladesh. It is truly regrettable that after all this time the displacement continues to this day. The Office of the United Nations High Commissioner for Refugees confirms the displacement of an additional 168 people from Myanmar to Bangladesh by the end of September. We express our concern over such displacement. That reflects the continued deterioration of the situation in Rakhine state in particular, and other states of Myanmar in general.

My delegation did not ask for this meeting to be convened to blame the Government of Myanmar for what happened. Instead, we asked because of our principled and firm position in favour of resolving conflicts by peaceful means, and our belief in preventive diplomacy. We welcome the efforts of States of the region to resolve this humanitarian crisis. However, the steps taken by Myanmar until now have been insufficient, and most have not been translated into reality on the ground. The Government of Myanmar has yet to implement all the steps and demands laid out by the Security Council in its presidential statement S/PRST/2017/22, or the recommendations of the Advisory Commission on Rakhine State with respect to addressing the root causes of the crisis, the suffering of the refugees and ensuring their voluntary return in safety and dignity to their homes in Myanmar.

The return of the Rohingya minority to their homes can begin only when a series of measures is taken to build trust and ensure that their return is both safe and dignified. That includes conducting independent and transparent investigations into the crimes and violations committed against the rights of the Rohingya minority in Rakhine state. Other measures include ending violence and ethnic discrimination and immediately closing all camps for internally displaced persons. It is also imperative to allow United Nations agencies and other partners access to all affected regions in Myanmar. All residents of Rakhine state should enjoy and unrestructed safe freedom of movement.

We firmly believe that addressing the root causes of the Rohingya minority crisis requires the prompt handling of two essential issues. The first concerns the need for the authorities of Myanmar to deal with the Rohingya minority without discrimination, regardless of ethnicity or religion, and to grant them their inherent right to citizenship. The second is the need to guarantee the right to accountability through transparent and fair investigations based on the collection of all proofs and evidences so as to ensure a fair prosecution of the perpetrators of such inhumane crimes. We welcome Human Rights Council resolution 39/2 and the recommendations of the fact-finding mission that the Security Council should ensure accountability for crimes in Myanmar, particular because the report concludes that some serious human rights violations in Rakhine state constitute the most serious crimes under international law.

In conclusion, the State of Kuwait reaffirms the need for the Security Council to address this humanitarian crisis with the greatest degree of diplomatic flexibility. The Council must speak in one voice in order to obtain the necessary results. When the number of displaced persons reaches 720,000, this proves that there is a real crisis impacting international peace and security. When 53 per cent ofthe displaced are children, that makes us certain that there is a real catastrophe. When the percentage of children and women combined hits 80 per cent of the displaced, that confirms the existence of a humanitarian crisis that must be addressed.

The reality on the ground in Cox's Bazar and Rakhine state requires us, as members of the Security Council, to take specific measures that would serve as a road map that has been long awaited by a minority that has suffered from the scourges of war, violence and acts of killing. That minority is still seeking to exercise its rights and to hold accountable all those who have violated the most basic human rights and perpetrated crimes with the intent of forever erasing the identity of that minority.

Respect for the rule of law, the defence of human rights, dialogue and resort to peaceful ways to settle disputes are among the main principles that the State of Kuwait defends in all forums.

Cases such as those in Myanmar cannot be ignored by the Security Council. That is especially true for the refugee issue, which seems to have last a long time, until a just and final solution can be found, allowing the Rohingya minority to enjoy all its rights.

**Mr. Skoog** (Sweden): I thank Mr. Darusman for his informative briefing. We really commend the dedicated and meticulous work of the independent international fact-finding mission in Myanmar, and we believe it was important that his report, establishing the facts and circumstances of the crisis, in particular Rakhine state, could be presented to the Security Council today.

We have been actively seized with the situation in Myanmar since we joined the Council in January 2017. In the beginning, our engagement was in a preventive spirit, including to support the Secretary-General. There were worrying reports and the situation grew worse. I want to quote from the report of the fact-finding mission: "What happened on 25 August 2017 and the following days and weeks was the realization of a disaster long in the making." (*A/HRC/39/64, para. 31*). Despite these early warning signals, there was resistance, and too little was done too late to prevent this crisis of immense proportions from evolving. There should be important lessons to draw from this for the Council.

Since the peak of crisis in August last year, the Council has succeeded in taking some small, but important, steps. In November, we unanimously adopted presidential statement S/PRST/2017/22, setting out a road map to address the crisis, and in April the Council undertook an unprecedented visit to Bangladesh and Myanmar to follow up on the implementation of the road map. However, as all previous speakers have underlined today, too little real progress has been achieved on the ground. While some rudimentary architecture for the repatriation of refugees has been put in place, the security and human rights situation in Rakhine is still far from being adequately addressed. More than 100,000 people have been confined in camps for internally displaced persons since 2012, and the Government has failed to close the camps in a sustainable manner. Freedom of movement is still restricted and media is not allowed access. Rohingya continue to flee to Bangladesh in the hundreds every month.

The Myanmar Government claims that it has implemented most of the recommendations of the Advisory Commission on Rakhine State, formerly led by the late Kofi Annan. Some steps have indeed been taken, but what is absolutely clear is that the vision set out in this important report remains distant. Most importantly, a genuine process towards resolving the issue of citizenship in a way that fully satisfies legitimate rights is still absent. Continued action by the Council with regard to the crisis in Rakhine is therefore needed, and I would like to highlight four areas.

First, the United Nations and humanitarian partners must be allowed full and unhindered access to Rakhine state. While some limited access has been granted, including to carry out assessments in a few villages, broader access for assessment and protection is urgently needed. The memorandum of understanding with the Office of the United Nations High Commissioner for Refugees and the United Nations Development Programme must be fully implemented.

Secondly, conditions must be created to ensure that all those who have fled can return to their places of origin in a safe, voluntary and sustainable manner. For this to take place, refugees need dignified conditions to return to, where they can begin to rebuild their lives, free from fear and with confidence in the future. This will

require real change on the ground. We need a new deal in Rakhine, as the late Secretary-General Kofi Annan stated at the Arria formula meeting in October last year. The Annan Commission report provides the framework for such a new deal. The genuine implementation of its recommendations is urgent.

Thirdly, all avenues must be pursued to ensure effective accountability for the crimes committed. Today's presentation by the United Nations-mandated fact-finding mission has provided the Council with solid and credible evidence. The Rohingya population and other groups in Rakhine state have been subjected to systematic and widespread human rights violations. Many of these violations undoubtedly amount to the gravest crimes under international law. We note in particular that the fact-finding mission report includes crimes against humanity and even genocide.

The report presented to the Council today should be a turning point. The Council must now take meaningful action on accountability. We should pursue consultations on a Security Council draft resolution, including a referral of the situation to the International Criminal Court. It is for these kinds of situations that the Council has been given the authority to make referrals to the Court.

Fourthly, the refugee camps outside Cox's Bazar in Bangladesh need continued and enhanced support. More funding is urgent. Only less than half of the response plan has so far been covered, seriously hampering humanitarian efforts. Protection in the refugee camps must be improved, not least for the most vulnerable. Particular attention should be given to survivors of sexual and gender-based violence — women and men, girls and boys.

The fact-finding mission report also sheds important light on the violations of international humanitarian law and violations and abuses of human rights law that are being perpetrated by the Myanmar military in other parts of the country, most notably in Kachin and Shan states. Indiscriminate air strikes, mortar shelling and the use of land mines have a devastating impact on civilians in these regions, and humanitarian access continues to be limited.

These conflicts are among the longest ongoing armed conflicts in the world and are at risk of further escalation. To stay true to our commitments to preventing and sustaining peace, we should be actively addressing these situations with a more proactive United Nations engagement. The military and the Government must redouble their efforts to advance the peace process. Such a process needs to be inclusive, with the meaningful participation of women. To achieve lasting peace, a political solution is needed that addresses the aspirations and grievances of all Myanmar's ethnic minorities and ends the culture of impunity in the country, as forcefully underlined by Mr. Darusman today.

Myanmar is at a crossroads and now has a historic decision to make. Either it chooses the path towards more repression and growing international isolation, or it chooses the path of justice, peace and prosperity. If it chooses the latter, the international community stands ready to support it. Regional actors have a critical role to play. The Special Envoy's positive engagement to build trust is needed and should now be translated into concrete steps forward. The United Nations and its partners have the capacity to support peace, humanitarian and longer-term development efforts.

We cannot expect the Government to solve everything overnight, but steps are urgently needed to demonstrate commitment and gain credibility in the international community. One such simple step would be to immediately pardon and release the two imprisoned Reuters journalists. Myanmar should further recognize the gravity of the crisis, take needed measures on accountability and improve the situation in Rakhine. Only then will conditions for safe and voluntary return of refugees be in place.

**Ms. Wronecka** (Poland): I would like to thank the Chairperson of the Human Rights Council's independent international fact-finding mission, Mr. Marzuki Darusman, for his detailed and very worrying briefing.

The alarming findings presented in his report show that the problem is grave and should be dealt with accordingly. I would like to underline the importance of accountability. While welcoming the State Counsellor's commitment to bringing all the perpetrators of human rights violations and other criminal acts to justice, we stress that the credible allegations of serious human rights violations and abuses must be investigated.

We call on all sides to put an immediate end to all violence. We particularly urge Myanmar to ensure the protection of all civilians without discrimination and to fully abide by international human rights law. We further reiterate the call on the Government of Myanmar to take every possible step to defuse the

tensions between communities and to grant full, safe and unconditional humanitarian access without delay. We call on the Government and its security forces to ensure that security, the rule of law and accountability prevail in Myanmar, including in Rakhine, Kachin and Shan states. We must also seek a comprehensive and durable solution addressing the root causes of the problem, including the elimination of statelessness, discrimination and underdevelopment, as outlined in the recommendations of the Advisory Commission on Rakhine State. We hope the Government of Myanmar will swiftly and fully implement the Commission's recommendations in that regard. We are of the view that lasting peace and stability can be achieved only through comprehensive and inclusive national dialogue, with the participation of all ethnic groups.

We acknowledge Myanmar's establishment in July of an independent commission of inquiry, and the Secretary-General's appointment of a Special Envoy on Myanmar. The commission is expected to submit a report within six months. We hope that the commission will bring us closer to ensuring accountability by working in an independent, objective and transparent way. We also note the Special Envoy's visit to Myanmar this month and encourage the Government of Myanmar to continue cooperating with both the commission and the Special Envoy. At the same time, we reiterate our call to Myanmar to fully cooperate in addressing the situation in Rakhine state with all the relevant United Nations and international bodies, including the Human Rights Council's independent international fact-finding mission.

Poland also emphasizes the importance of establishing conditions conducive to the safe, voluntary, dignified and sustainable return of displaced persons to Rakhine state and their reintegration. We urge the Government to immediately ease restrictions on freedom of movement in order to facilitate access for all communities to employment opportunities, education, health care and other services. We also look forward to the implementation of the arrangement signed in November 2017 between Myanmar and Bangladesh on the return of displaced persons from Rakhine state, and the memorandum of understanding signed in June by Myanmar, the United Nations High Commissioner for Refugees and the United Nations Development Programme.

**Mr. Amde** (Ethiopia): I would like to thank Mr. Darusman for his briefing. We have been following the situation in Myanmar very closely since we joined the Council. We believe that so far the Council's constructive engagement has had a positive impact in terms of addressing the humanitarian situation in Rakhine state. We note the progress that has been made but also recognize the enormous challenges that still lie ahead.

The human rights situation in Myanmar is indeed a matter for serious concern and we understand that the relevant and appropriate United Nations bodies are handling the matter. The issue with respect to whether or how the Security Council should directly address human rights issues has been a matter of debate in the Council and there is no consensus among members on it, as we have clearly seen today. The situation in Myanmar is extremely complex and difficult, and a sustainable solution to the root causes of the problems that led to this humanitarian disaster must be found. In that context, we do not believe that our course of action will help to make progress in ongoing efforts where building mutual confidence and trust among those concerned is so critical. That is the main reason why we decided to abstain in the voting on the agenda item.

We believe that ensuring accountability through a transparent and independent verification mechanism is absolutely critical. In that regard, we recognize the efforts that the Government of Myanmar is making and underscore the importance of speeding them up in order to ensure peace and reconciliation in the country. We would like to take this opportunity to appreciate the role of Special Envoy Christine Burgener, and we have seen the outcome of her third visit to Myanmar and the region, which enabled her to engage with various stakeholders. As she emphasized during her visit, the issues of accountability and inclusive dialogue are indeed important pillars for national reconciliation. We could not agree more with her on the need for credible and reliable fact-finding as a first step towards accountability. We believe the Council should continue to support her important efforts.

We are also pleased to note the recent bilateral and regional engagement aimed at repatriating refugees and addressing the complex issue of Rakhine state. In that context, the three-point consensus reached between China, Myanmar and Bangladesh during the informal meeting held on the sidelines of the General Assembly is indeed encouraging. We look forward to the outcome of the third joint working group meeting, to be held on 29 October in Dhaka. We hope it will help in making

further progress with regard to the process of voluntary, safe and dignified repatriation.

The enormous burden that Bangladesh has taken on in providing safety and humanitarian assistance to refugees is indeed commendable. However, the magnitude and scale of the humanitarian situation means that Bangladesh requires further financial and logistical support. We therefore hope that bilateral and multilateral partners will scale up their support to the country.

Finally, without a united Security Council there can be no meaningful progress in support for the efforts to find a sustainable solution to the situation in Myanmar. We hope we will be able to restore that unity of purpose despite our divergent views.

**Mr. Ndong Mba** (Equatorial Guinea) (*spoke in Spanish*): At our last meeting on this subject, on 28 August (see S/PV.8333), together with other members of the Council, the Republic of Equatorial Guinea again reaffirmed its profound concern for the hundreds of thousands of Rohingya who, for fear of violence and atrocities, have been forced to flee their homelands and property in Myanmar to Bangladesh.

We applaud the solidarity of the Government and the people of Bangladesh who, with the support of the United Nations, its partners and non-governmental organizations, continue to provide security, accommodation, assistance and humanitarian aid to an enormous number of refugees. We hope that this major humanitarian effort can continue while the international community works together with Myanmar and Bangladesh to ensure the entire population's dignified and sustainable return to their homeland.

Despite the well-known difficulties surrounding this issue, our delegation certainly appreciates the work that has been carried out by the United Nations this year. Among other things, it includes the important visit by members of the Council in the second quarter of this year and the June visit of the Secretary-General, in which he was joined, significantly, by the President of the World Bank. We also highlight the Secretary-General's April appointment of his Special Envoy on Myanmar, who has made several trips to explore and familiarize herself with the area since then. Nor should we forget the direct and continued support supplied by the various agencies of the United Nations system on the ground.

During those visits, the delegations were able to confirm the deplorable situation of the displaced Rohingya in the settlements in Cox's Bazar, where hearings and meetings were also arranged with the local authorities in Myanmar and Bangladesh, with whom they had important exchanges with a view to finding a solution to the conflict. It will be impossible to ensure a dignified and prosperous future for young refugees with the very limited education prospects and ways to earn a living available to them, so if they remain there a long time an entire generation of a people will be condemned to poverty. The international community and Myanmar must understand that, but they must also respect the generous hospitality of Bangladesh, and that obliges us to redouble our efforts to advance the process of ensuring the return of the Rohingya. We hope that the Government of Myanmar has made progress with the initiatives it laid out in a letter submitted to the Council on 20 July through its representative in New York (S/2018/726) on humanitarian access, accountability for human rights abuses and the implementation of the recommendations of the Advisory Commission on Rakhine State, which were also the main areas identified by the Council.

We welcome the fact that since the office of the Special Envoy of the Secretary-General on Myanmar became operational, Myanmar and Bangladesh have been receiving regular working visits from Ms. Burgener and having in-depth exchanges with her on the issue of Rakhine. We must all support her work and give her time for a more thorough and appropriate investigation that will better facilitate her dialogue with local Governments.

We also welcome the ministerial meeting held in August between Myanmar and Bangladesh, at which they discussed the implementation of the bilateral repatriation agreement and reached consensus on issues such as forms of verification, displaced persons in the border area and the establishment of a direct line of communication between their Ministers. We encourage the parties to continue working together constructively. We also stress the importance of the joint working group meetings held in recent months between Myanmar and the Office of the United Nations High Commissioner for Refugees and the United Nations Development Programme, which in our view help to reinforce their respective commitments. The meetings should be frequent, productive and exemplary in order to build more trust and pursue their shared goal, the creation of

a safe sociopolitical environment that can guarantee the refugees' return to their homes.

Before concluding, Equatorial Guinea urges all members of the Council and the international community to support all initiatives based on peaceful negotiations and the encouragement of contacts as the only way to reach a sustainable and lasting solution to this thorny situation. Lastly, we want to express our sincere gratitude to the United Nations and all its agencies on the ground, to Bangladesh and to all international actors providing assistance of any kind to the Rohingya refugees or working to facilitate their return. We also commend the People's Republic of China for its exemplary efforts as a liaison between the various parties concerned and encourage it to continue in order to ensure that Myanmar collaborates effectively with Bangladesh for the return of the Rohingya to their homes.

**Mr. Meza-Cuadra** (Peru) (*spoke in Spanish*): We thank Mr. Marzuki Darusman, Chairperson of the independent international fact-finding mission on Myanmar established by the Human Rights Council, for his briefing, which is crucial to the work of the Security Council. Peru supported convening this meeting, considering, among other things, that since the Council's visit to Myanmar and Bangladesh in April, which we had the honour of leading together with the United Kingdom and Kuwait, the responses aimed at resolving the grave humanitarian crisis there are still insufficient. That is why we believe that the Council should continue to pay due attention to the plight of the Rohingya refugees, with a view to bringing about their voluntary, safe, dignified and sustainable repatriation, as well as to promoting justice, accountability and reconciliation in order to build sustainable peace in Myanmar.

We would like to reiterate our appreciation to Bangladesh for its solidarity in taking in more than 1 million refugees, and to stress the importance of the international community's support in addressing the refugees' critical humanitarian situation, especially in the light of the impact of the recent monsoon. We also stress the role of regional and subregional organizations, particularly in preventing and responding to emerging conflicts. In that regard, we welcome the involvement of the Association of Southeast Asian Nations in addressing and contributing to a solution to the situation in Myanmar.

We have high hopes for the ongoing technical meetings held by the joint working groups established by Myanmar and Bangladesh, as well as the efforts of the Burmese authorities to advance the implementation of the memorandum of understanding signed with the United Nations High Commissioner for Refugees and the United Nations Development Programme. We also underline the recent visit of the Special Envoy and in that context, we stress the urgent need for all the current efforts and developments to produce concrete results on the ground with a view to enabling the return of refugees and internally displaced persons.

Addressing the root causes of the crisis by fully implementing the recommendations of the Advisory Commission on Rakhine State is urgent, although we recognize that these are complex tasks within the framework of a delicate national process of peace, reconciliation and democratization. While we acknowledge the significant effort involved in establishing an independent investigative commission, we must point out that in order to fully understand this tragedy, its jurisdiction cannot be restricted to events prior to 25 August 2017. In that connection, we take careful note of the conclusions of the report of the fact-finding mission (A/HRC/39/64), in which, after considering the violence that occurred after 25 August 2017 and its causes, it finds reasonable evidence for the commission of crimes of genocide, crimes against humanity and war crimes.

Given the gravity of the situation, we take note of the decision of the International Criminal Court to affirm its jurisdiction over the crime of the forced deportation of the Rohingya people. We look forward to the results of the preliminary examination by the Office of the Prosecutor of the Court. We also stress the importance of Human Rights Council resolution 39/2, which approved the establishment of a new independent mechanism to collect, consolidate, preserve and analyse evidence of violations of international law. We believe that this is an urgent task that requires cooperation with the private sector, particularly in the area of information and communication technology, and that it should also serve to develop strategies aimed at preventing the dissemination of distorted information and narratives of hatred and discrimination.

In conclusion, I would like to stress how important it is that the Council continue to focus on this situation. It can count on my delegation's full support in that regard.

**Mr. Adom** (Côte d'Ivoire) (*spoke in French*): My delegation would like to thank Mr. Marzuki Darusman, Chairperson of the independent international fact-finding mission on Myanmar, for his very thorough and informative briefing.

Barely 10 years ago, my country and other countries in the West African subregion were emerging from very painful internal conflict. Mr. Darusman's briefing brings back those images of hordes of ragged and desperate people fleeing attacks, trudging over rutted roads under a blazing tropical sun. When Côte d'Ivoire emerged from that internal conflict, thanks to the help of the international community, the people of Côte d'Ivoire said never again. And as our country decided to align its ideas with its actions, we have enshrined as a cornerstone of our Constitution the right to life as a cardinal principle and value. What we want for the Ivorian people is also what we want for the other peoples of the world. That is why the humanitarian situation of the displaced and refugee Rohingya people and the human rights situation in Rakhine state continue to challenge the conscience of humankind and our humanity. That is why we joined others in calling for this meeting.

Côte d'Ivoire does not claim to have a monopoly of the heart, to paraphrase a great President of a great friendly country, whom I esteem. However, it is clear that, in spite of the efforts made, enormous challenges remain, particularly in relation to the delivery humanitarian aid and the return of Rohingya refugees. That is why my statement will focus essentially on the humanitarian aspect.

Côte d'Ivoire commends the commitment of the Government of Myanmar to cooperating with the United Nations — a commitment embodied by the signing on 6 June of the tripartite memorandum of understanding with the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Development Programme (UNDP). Côte d'Ivoire urges the Myanmar authorities to redouble their efforts to implement that agreement by facilitating the access of United Nations agencies and specialized bodies to populations in need in order to provide them with access to humanitarian aid and assistance.

With regard to the issue of human rights, my delegation takes note of the findings of the Human Rights Council independent international fact-finding mission on Myanmar. Côte d'Ivoire reaffirms its commitment to respecting and protecting human rights. We underscore the obligation of the international community to bring the perpetrators of human rights violations before the appropriate courts. In that regard, we support the efforts of the Human Rights Council to implement the findings of the fact-finding mission, including through the establishment of an independent mechanism to collect, consolidate, preserve and analyse the evidence of the most serious crimes and violations of international law in Myanmar.

The solution to the current crisis in Myanmar must be viewed as part of a comprehensive approach that addresses, inter alia, the important issue of the safe and dignified return of Rohingya refugees. Côte d'Ivoire remains convinced that lasting peace in Myanmar must be based on the search for consensual solutions that take into account the concerns of all parties. To that end, we wish to see the international community focus its efforts on three main areas: the implementation of the memorandum of understanding between Myanmar, UNHCR and UNDP; the establishment of a process to fight impunity, in support of the work of the ongoing national commission of inquiry; and the implementation of the recommendations of the Advisory Commission on Rakhine State.

My delegation reiterates its support for Ms. Christine Schraner Burgener, Special Envoy of the Secretary-General on Myanmar, and encourages the Government of that friendly country to continue to cooperate with her. My country — which, in the early 1990s, provided asylum to and facilitated the integration of hundreds of thousands of refugees fleeing conflict in neighbouring countries — recognizes the immense efforts and sacrifices entailed in the opening of national borders to people in distress. That is why we wish to express our sincere gratitude to the authorities and the friendly people of Bangladesh for their hospitality and assistance to the Rohingya refugees.

In conclusion, Côte d'Ivoire urges the international community to continue and increase its assistance to refugees by making an adequate financial contribution to the United Nations joint response plan.

**Mr. Tumysh** (Kazakhstan): The situation in Myanmar and that of the Rohingya refugees remain among the most critical problems of concern for the international community. The world is today witnessing one of the most serious catastrophes and violations in the humanitarian space, with the displacement of more than

700,000 Rohingya refugees who have fled to Bangladesh since August last year. At the same time, on procedural grounds, the invitation to the independent international fact-finding mission on Myanmar — mandated by the Human Rights Council, which is a subsidiary body of the General Assembly — to brief the Council is beyond its mandate. My delegation therefore abstained during the procedural voting. On the other hand, we acknowledge the update by Chairperson Darusman and we thank him.

My country has always stood for an early and comprehensive solution to this humanitarian crisis, with the direct participation of Myanmar, Bangladesh and the entire international community. That stance remains unchanged even today. We note the arrangements made by the Government of Myanmar for the repatriation and resettlement of the Rohingya refugees, as well as its cooperation with the Office of the United Nations High Commissioner for Refugees, the United Nations Development Programme and the Special Envoy of the Secretary-General, Ms. Burgener. We welcome her third visit to Myanmar from 10 to 20 October, which has led to further progress in that regard.

With that in mind, my delegation also expresses grave concern about the results of the fact-finding mission investigation and condemns the atrocities committed in Rakhine. The reported flagrant, massive and systematic violations of human rights have been shocking, including discrimination on ethnic and religious grounds, with ongoing large-scale deportation and systematic oppression that are still prevalent. We are particularly concerned that the report comes to the conclusion that,

> "The extreme vulnerability of the Rohingya is a consequence of State policies and practices implemented over decades" (*A/HRC/39/64, para. 20*).

It is obvious that the full disclosure of the atrocities and taking action against those responsible will be a necessary prerequisite to instil confidence in the refugees that they can return home. Likewise, under the current circumstances, the return of Rohingya refugees from Bangladesh to their homes in Rakhine state will not be possible unless the authorities of Myanmar expedite the process of creating the necessary conditions and providing full security assurances, as well as access to education, employment, health care and stable, long-term sources of livelihoods.

We strongly believe that it is only by addressing the root causes — namely, the issues of citizenship and restoring the rights and freedoms of the Rohingya Muslims — that this complex and long-standing crisis can see a dignified and durable solution. We expect the Government of Myanmar to continue to adopt confidence-building measures and implement all the practical measures recommended by the Advisory Commission on Rakhine State. For example, the freedom of movement of the Rohingya Muslims in Myanmar should be ensured immediately by the Government of Myanmar in order to clearly demonstrate its own sincerity.

More than 1 million Rohingya Muslims — the vast majority being women and children — have to remain in extremely difficult conditions in refugee camps in Bangladesh. Kazakhstan commends the efforts of the Government of Bangladesh in helping such an unprecedented magnitude of refugees and providing them with shelter, medical care, food and other forms of assistance. At the same time, we still need an enormous amount of additional funds, as well as all forms of in-kind assistance. We therefore appeal to all Member States, international organizations and other actors to continue providing full support to Bangladesh. At the same time, Kazakhstan understands that establishing intercommunal trust is a long-term and challenging process that will demand the active participation of all stakeholders.

However, the main responsibility for resolving the problem lies with the Union of Myanmar itself. We are particularly encouraged by the results of an informal meeting between China, Myanmar and Bangladesh on the margins of the seventy-third session of the General Assembly. We believe that this third meeting of the joint working group, to be held on 29 and 30 October in Dhaka, will contribute to resolving the issue of displaced persons in a friendly and expeditious manner. In our view, the engagement of the Asian troika has considerable potential to contribute to the resolution of the current crisis.

Finally, we believe that the Security Council should contribute positively to settling the crisis and avoid needless polarization. My delegation is committed to supporting the multilateral actions aimed at ensuring peace and security for the Rohingya refugees and the people of Myanmar, and we expect the Government to make every effort to that end.

**Mr. Nebenzia** (Russia) (*spoke in Russian*): Today, before our very eyes, the Security Council forfeited consensus on yet another extremely important topic in the work of our Organization, resulting from an unconstructive, irresponsible tactic by a number of States designed to force us to hold a meeting to discuss the report of the independent international fact-finding mission on Myanmar established by the Human Rights Council (A/HRC/39/64). As we already noted in our statement on the reasons for the procedural vote, we see absolutely no added value in a briefing to the Security Council on the subject.

We have been made to discuss a very strange report, whose legitimacy has given rise to serious doubts. It has already been widely criticized within the Human Rights Council by many delegations, including ours, which testifies to its confrontational nature and which in itself devalues any discussion of the document that has been dumped on the Security Council. We are all aware that Myanmar is not cooperating with the fact-finding mission, and its representatives have never visited the country. It is therefore hardly possible to consider evidence collected outside the country concerned to be objective or exhaustive. That also fully applies to the so-called findings and conclusions based on that evidence.

Those who pushed for today's discussion of the report in the Security Council are doing all they can to reduce the significance of the Myanmar authorities' establishment on 30 July of an independent commission of inquiry, whose leaders and staff include reputable foreign representatives. Rather than blackmailing and intimidating Naypyidaw, it would be helpful to give the commission our whole-hearted multilateral support. After today's meeting, no one should be left with any illusions about the fact that its instigators have absolutely no interest in resolving the problems of the Rohingya. They are merely an excuse for putting shameless pressure on the authorities of a sovereign State and forcing it to do what its former colonizer and its allies want. The logical next step in that direction would be pressure for anti-Myanmar sanctions and corresponding Security Council resolutions, a course of action that we categorically refuse to support.

I say that because it is hard to avoid noticing that Naypyidaw is trying to solve the refugee problem. Since the Security Council's visit to Myanmar at the end of April and beginning of May, we have seen a number of positive changes. The Myanmar leadership is working systematically to implement the recommendations of the Advisory Commission on Rakhine State with a view to achieving a comprehensive settlement of the crisis, and 81 of the 88 recommendations have been implemented so far. The authorities have repeatedly confirmed at the official level their willingness to ensure the gradual return of all the displaced, including from Bangladesh. To date, Myanmar has verified the identity of more than 8,000 refugees. The steps taken to establish the infrastructure in Rakhine state needed for receiving and resettling returnees deserve high praise.Another positive example is the close cooperation of the Office of the United Nations High Commissioner for Refugees and the United Nations Development Programme with the Government of Myanmar on implementing the tripartite memorandum of understanding signed on 6 June. We support the work of Christine Schraner Burgener, Special Envoy of the Secretary-General on Myanmar, who has already visited the country three times, most recently from 10 to 20 October, and we note the positive response of the Myanmar authorities to her proposal for opening an office in Naypyidaw.

For our part, we have consistently supported a balanced and non-confrontational approach in discussing the situation in Myanmar and finding ways to normalize the humanitarian situation in Rakhine, including resolving the issue of the Rohingya. We should keep in mind that the underlying problems in Rakhine are multifaceted and complex, and can be resolved only through peaceful political and diplomatic efforts establishing a dialogue between the authorities in Naypyidaw and Dhaka and representatives of all ethnic and religious groups. The agreed legal basis for negotiations between Myanmar and Bangladesh and the functioning coordination mechanisms will make it possible to take practical steps in that direction. The tactic of postponing the start of the repatriation process, which is increasingly being used by outside forces to put additional pressure on Myanmar, is counterproductive. At this stage, we believe that the priority is ensuring international cooperation with a view to tackling the worst humanitarian consequences of the crisis. We believe it is essential to provide assistance to both Bangladesh and Myanmar, and that it is also the role of the international community to help Naypyidaw and Dhaka implement their existing agreements.

We see the Rakhine issue as part of a wider context of the broad challenges and tasks facing the democratically elected leadership in Myanmar. We do

not support attempts to saddle Naypyidaw or specific groups in Myanmar with the entire responsibility for resolving the crisis, while ignoring the need to combat terrorist groups, above all the Arakan Rohingya Salvation Army, whose attacks launched by that group did a great deal to provoke the situation in Rakhine state. Such actions only make the prospects for a solid inter-ethnic peace in Myanmar and for its effective cooperation with the international community more distant. We believe that assistance to the Governments of Myanmar and Bangladesh in resolving the situation related to Rakhine state should be provided in a spirit of equality and mutual respect. Unfortunately, today's meeting contributes absolutely nothing to that.

**Mr. Ma Zhaoxu** (China) (*spoke in Chinese*): China regrets the fact that the Security Council heard a briefing today from the independent international fact-finding mission on Myanmar established by the Human Rights Council. Such practices jeopardize the unity of the Council and are not conducive to ensuring that its members cooperate to jointly solve the issue of Rakhine state.

Good progress has recently been made in resolving the issue of Rakhine state through the joint efforts of the country concerned, other countries in the region and United Nations agencies. In mid-September, the first joint mission of the Office of the United Nations High Commissioner for Refugees and the United Nations Development Programme visited 23 villages in Rakhine state, while in mid-October a second joint mission visited a further 26 villages. The Myanmar Government has promised to grant the joint mission full access to Rakhine state's entire territory and to actively implement the tripartite memorandum of understanding. The recommendations made by the Advisory Commission on Rakhine State in its report are being implemented. Myanmar's independent commission of inquiry on Rakhine state recently began work and held a meeting. In consultations with Bangladesh, the commission visited Kasba, in Bangladesh, to conduct an investigation with a view to establishing accountability for the human rights violations committed in Rakhine state after the attacks by the Arakan Rohingya Salvation Army in October 2016 and August 2017.

In mid-October, Ms. Christine Schraner Burgener, Special Envoy of the Secretary-General on Myanmar, visited Myanmar once again. She held in-depth discussions with Myanmar leaders and officials, and visited Maungdaw and Buthidaung to get first-hand information on the situation in Rakhine state. The Myanmar and Bangladesh joint working group will hold its third meeting by the end of the month. Mr. Abul Hassan Mahmood Ali, Minister for Foreign Affairs of Bangladesh, indicated recently that based on Bangladesh's list of 8,000 people and the list provided by Myanmar, a first group of refugees will soon be repatriated. The international community should note and fully acknowledge that active progress. The Government and the people of Bangladesh have been providing significant humanitarian support for the displaced people in Bangladesh despite the difficulties involved. They are working hard to improve their living conditions and make the necessary arrangements to help them respond to natural events such as hurricanes and the rainy season. China greatly appreciates Bangladesh's outstanding efforts.

Myanmar and Bangladesh are both friends and neighbours of China. Since the beginning of the Rakhine state incidents, China has been actively engaged in diplomatic efforts to promote dialogue and consultations between the two countries so as to resolve the issue. China proposed the concept of a three-stage solution to the Rakhine state issue and has encouraged the parties to agree on a number of important issues. On 27 September, following the first informal tripartite meeting in late June between China, Myanmar and Bangladesh, Mr. Wang Yi, Minister for Foreign Affairs of China, held another informal tripartite meeting at United Nations Headquarters in New York with Mr. Ali and Mr. U Kyaw Tint Swe, Minister for the Office of the State Counsellor of Myanmar, which was also attended by the Secretary-General and Ms. Burgener, his Special Envoy on Myanmar. The meeting's friendly, frank and constructive atmosphere resulted in three important points of consensus.

First, Myanmar and Bangladesh agreed to properly resolve the issue of Rakhine state through friendly consultations. Secondly, Bangladesh indicated that it was ready to repatriate the first group of people who had fled the turmoil. Myanmar also indicated that it was well prepared to receive those ready to be repatriated. Thirdly, both countries agreed to convene a joint working group meeting as soon as possible to establish a road map and timetable for the repatriation, so that work on it can begin without delay. We are therefore pleased to note that the consensus I mentioned is being actively implemented.

China is deeply concerned about the displaced people in Bangladesh and has provided humanitarian assistance to both countries concerned. On the same basis as its previous assistance, China recently pledged to donate 1,000 temporary shelters to local people to improve their living conditions and resettle the repatriated, and has also provided Bangladesh with ¥20 million in food assistance. We remain committed to seeking a solution to the Rakhine state issue.

The Rahkine state issue has a complex historical, ethnic and religious background. It is essentially an issue between Myanmar and Bangladesh, and resolving it will require relentless long-term effort. The international community should respect Myanmar's sovereignty and territorial integrity, appreciate its hard-won positive progress, fully understand the difficulties and challenges it is dealing with and make meaningful efforts to help resolve the issue. The immediate task is ensuring the early launch of the repatriation process for those who fled Myanmar for Bangladesh. The international community should encourage both countries to intensify their dialogue and ensure that the first group is successfully repatriated as soon as possible so that they can return to their homes.

The issues of greatest concern to everyone in the repatriation process, which are freedom of movement, citizenship and accountability, should be gradually and appropriately resolved. The Office of the United Nations High Commissioner for Refugees and the United Nations Development Programme should intensify their consultations with the Myanmar Government and work for the effective implementation of the tripartite memorandum of understanding. The Security Council should continue to support the Special Envoy, who is seeking dialogue and consultations aimed at helping the Myanmar Government resolve the issue. Development is the fundamental pathway to a lasting a solution to the Rakhine state issue. The international community should devote more attention to helping local authorities and residents eradicate poverty, achieve sustainable development, improve their livelihoods and social and economic conditions, and foster social stability and harmonious coexistence among the people.

Last but not least, the international community is closely following the human rights situation and the issue of accountability in Rakhine state. The Myanmar Government is committed to bringing to justice the perpetrators of human rights violations on a basis of solid evidence. It has established an independent commission of inquiry on Rakhine state, which has extensive international participation and has promised to submit a report within a year. The international community should respect Myanmar's sovereignty and encourage the commission to work independently, establish the truth and hold the perpetrators of human rights violations accountable.

With regard to the report of the independent international fact-finding mission on Myanmar (A/HRC/39/64), the mission did not enter in Myanmar at all. Its results are based on biased, incomplete information. They are neither objective nor impartial, and therefore not credible. Its conclusions, suggestions and recommendations constitute wilful interference in Myanmar's internal affairs and are an affront to its sovereignty. The fact-finding mission is not a judge. Such practices are unhelpful to resolving the issue in Rakhine state and can only jeopardize the possibility of internal reconciliation and democratic transition in Myanmar, escalate tensions in Rakhine state and undermine the authority and credibility of the United Nations.

Human rights are a common cause of the international community and one of the three pillars of the United Nations. China has consistently advocated for dialogue on human rights issues, based on equality and mutual respect. That is the right way to promote the cause of human rights for humankind. China stands ready to work with the international community to seek dialogue and consultations, uphold justice and impartiality, work to find a solution and continue to play a constructive role in resolving the issue.

**The President** (*spoke in Spanish*): I shall now make a statement in my capacity as the representative of the Plurinational State of Bolivia.

Bolivia reiterates its deep concern about the acts of violence that occurred in Rakhine state in August 2017 and their aftermath, which led to the displacement of approximately 900,000 people to Bangladesh, where they are living in difficult conditions. That violence cannot go unpunished. Those deeds must be investigated, and the people responsible for them identified and brought to justice to answer for them in the appropriate courts. The work of the independent commission of inquiry on Rakhine state established at the end of July is key to achieving that goal. To that end, it is essential that all the relevant agencies and institutions cooperate with the commission's

investigations and provide all the information needed to ensure that the perpetrators do not continue to enjoy impunity. We want to emphasize in that regard that since its establishment, the commission has held three meetings with officials at various levels of Government and members of the populations affected.

We would like to highlight the efforts of regional actors to bring the parties together and promote dialogue between them, such as the meeting held on 27 September with the Ministers for Foreign Affairs of Myanmar and Bangladesh at the initiative of China's Minister for Foreign Affairs, which the Secretary-General attended. An agreement was reached at that meeting to resolve the issue through amicable consultations among the parties, coordinate the repatriation of a first group of displaced persons and hold a joint meeting to develop a road map and timetable to achieve that goal. We also want to point to the meeting in Beijing on 29 June between the Foreign Ministers of Myanmar and Bangladesh, also initiated by China's Minister for Foreign Affairs, during which the basic principles for four points for resolving the situation of the Rohingya refugees were agreed on — finding a way to stop the violence, beginning the work of repatriation, implementing projects and sustainable development programmes to the benefit of both parties and thereby strengthening relations of trust and cooperation between the Governments of Bangladesh and Myanmar. It is that type of positive action that should be at the forefront of promoting the resolution of the situation in Myanmar.

On the other hand, it is also important to strengthen the cooperation and coordination work for the repatriation of Rohingya refugees that the Government of Myanmar is developing together with the United Nations Development Programme and the Office of the United Nations High Commissioner for Refugees, in the framework of the memorandum of understanding signed on 6 June. As a result of its implementation, 23 villages were evaluated in July and 26 additional villages are currently being evaluated. In addition, the international community should provide all possible support to the Governments of Bangladesh and Myanmar for the implementation of the framework for a dignified, safe, voluntary and transparent return of the refugees to their places of origin and encourage the fulfilment of the remaining tasks. In that regard, we have taken note of the visit to Myanmar of the Special Envoy of the Secretary-General on Myanmar, which concluded a few days ago.

Finally, as all the other delegations have done, my delegation acknowledges and commends the efforts that the Government of Bangladesh has made over the past year with regard to the refugees in its country. In that regard, it is imperative that the international community and the United Nations do everything possible to support host communities in Bangladesh and ensure that they have access to short-, medium- and long-term development incentives.

I shall make a brief reference to what we heard at the end of the statement made by the representative of the United States. I will be very brief so as not to distract the Council's attention from the subject that brings us together today. I would like to point out that I agree with the Permanent Representative of the United States that there are ways of doing things at the United Nations. There are ways to have relations of cooperation and mutual respect among Member State. And there is also the other way — to use and instrumentalize the United Nations and its facilities for political purposes, or to use and instrumentalize the issue of human rights with a double standard and for political purposes. My delegation, in its national capacity, is not going to ask anyone for permission on how to behave or act. On the other hand, we insist that United Nations facilities not be used for political purposes.

I now resume my functions as President of the Council.

I give the floor to the representative of Myanmar.

**Mr. Suan** (Myanmar): Today, 24 October, marks the seventy-third anniversary of the founding of the United Nations. In Myanmar we celebrate United Nations Day every year with a special ceremony and public activities to promote awareness of the work of the United Nations. This is a day to celebrate, a day to cherish, a day to remember the past and a day to renew our noble commitment to building peace, development and human rights in the world, the responsibilities the founding fathers of the Organization entrusted upon us.

Sadly, though, we are gathering here in the Chamber in defiance of the purposes and principles of the Charter of the United Nations — that of our own Organization — against the standing rules and procedures of the Council and against all logic and fairness of human conscience. We are witnessing the core erosion of the moral and institutional integrity of the United Nations as a result of the blatant attempt by some members of the Council to hijack the human rights

issue for their political purposes. My delegation has joined other Council members in our strong objection to this injustice and abuse of the established practice of the Security Council.

When the fact-finding mission on Myanmar was established by the Human Rights Council, in March 2017, we objected to the mission because of our serious concerns, particularly about the advisability of its establishment and the mandate itself. The Human Rights Council resolution mandated the mission

> "to establish the facts and circumstances of the alleged recent human rights violations by military and security forces, and abuses, in Myanmar, in particular in Rakhine State ... with a view to ensuring full accountability for perpetrators and justice for victims" (*Human Rights Council resolution 34/22, para. 11*)

The mandate was very clear. The mission has already designated who should be perpetrators and who should be victims. From its genesis, the establishment of the fact-finding mission has been flawed, biased and politically motivated, with hidden agendas. We are also concerned that the release of its report (A/HRC/39/64), which is based on narratives and not on hard evidence, will serve only to further inflame tensions and potentially hinder the Government's effort to create much-needed social cohesion in Rakhine state. The one-sided report of the mission has confirmed our concerns.

We also raised previously in the Chamber, on 28 August (see S/PV.8333), our doubt — or our concern — about the sincerity of the mission. Although the mission was mandated to submit its report to the Human Rights Council on 18 September, it released, well ahead and in haste, the unedited version of the report on 27 August, just one day ahead of the Security Council's public debate on the situation in Myanmar. The action called for our legitimate concerns about the objectivity, impartiality and credibility of the mission. The methodology of its investigation is also flawed, as the report was prepared from results of interviews of selected groups of displaced persons in Cox's Bazar and information gathered from some non-governmental organizations (NGOs), international NGOs and human rights groups who had already set their predetermined agenda on the issue. Therefore, the mission's report did not shed new light on the problem but was found to be identical with the reports of certain human rights groups with no accountability for their work at all.

We have repeatedly explained the fact that the current humanitarian crisis in Rakhine state was ignited by the unprovoked and premeditated attacks against 30 police outposts and a military battalion headquarters by the Arakan Rohingya Salvation Army (ARSA) terrorist group in August 2017 and, previously, in October 2016. The ARSA terrorists had massacred security personnel and hundreds of innocent civilians, including 100 Hindu villagers, other ethnic minorities and even pro-Government Muslims. The atrocities perpetrated by ARSA have made thousands of innocent ethnic people flee their villages to the other parts of Rakhine state. Likewise, it created a massive exodus of Muslims to the neighbouring country. It is crucial to bear in mind that the present crisis did not affect only the Muslim community. When we talk about human rights, we should look at the human rights of both communities.

However, we are dismayed by the fact that the fact-finding mission has deliberately and glaringly discounted ARSA terrorist atrocities, which could even be interpreted by many as justifying or condoning the acts of Muslim extremist terrorists. In its report, the fact-finding mission took great courage to reluctantly and half-heartedly mention the atrocities committed by ARSA terrorists. It lists a few ARSA human rights violations, including "the killing of up to 100 Hindu men and women from Kha Maung Seik" (*A/HRC/39/64, para. 54*). It continues:

> "[t]he mission's primary source information on the latter incident" — that is, the killing of Hindus — "corroborates the killing, but is inconclusive as to the perpetrator. Other militant or criminal groups were also active in the region and may also have been responsible for abuses." (*ibid.*)

Amazing. I am just bringing the naked truth of the report to the attention of the members of the Council.

Much has been talked about accountability. As the Council is well aware, the Government of Myanmar has established an independent commission of inquiry, led by Ambassador Rosario Manalo. The commission will investigate allegations of human rights violations and related issues following the terrorist attacks of 9 October 2016 and 25 August 2017 by the Arakan Rohingya Salvation Army in Rakhine state with a view to seeking accountability and reconciliation. The commission will conduct its mandate in accordance

with the principles of independence, impartiality and objectivity, and will submit its report within a year. We are willing and able to take on the issue of accountability for any alleged human rights violation where there is sufficient evidence. We need to give time and space to the independent commission of inquiry.

Mr. Darusman has said that Myanmar has taken no action on alleged violation of human rights. In fact, legal actions have been taken against military and police officers and civilians who were found to be in breach of standard operating procedures and rules of engagement following the Inn Din incident. In addition, other administrative actions have also been taken against high-ranking senior officers of Tatmadaw who were responsible for overseeing security operations in Rakhine.

My delegation categorically rejects the inference of "genocidal intent" with respect to the legitimate counter-terrorist actions taken by the security forces in Rakhine. The conclusion is made based on unverified circumstantial evidence and has no sound legal proof. The Government of Myanmar has resolutely rejected the 6 September ruling of the International Criminal Court (ICC) in connection with Rakhine state. Our position is clear — Myanmar is not a party to the Rome Statute and the Court has no jurisdiction whatsoever over Myanmar. The ICC decision was made on dubious legal grounds and applied to a situation where domestic remedies have not yet been exhausted. Therefore, I want to make it very clear that we will never accept any call for the referral of Myanmar to the ICC.

As I stated earlier, we have demonstrated our willingness and ability to address the accountability issue. Putting accountability above all else, without regard to other positive developments, will result only in untoward consequences. Unilateral coercive measures taken without regard to the objective situation in Myanmar and the imposition of politically motivated external pressure will be detrimental to the existing good will and cooperation of the Myanmar Government with the international community.

The situation in Rakhine has in no way threatened international peace and security. The accusation is absurd and groundless. The report is full of prejudice and is totally unconstructive. In his United Nations Day message today, President Win Myint reminds us that,

> "The value of the United Nations will be decided by how the Organization and its Member States utilize instruments at their disposal to promote peace, stability and harmony, and to mitigate harm and enmity. Objectivity, impartiality, professionalism, respect for national sovereignty — these are some of the keys to the success of the United Nations mission."

I would like to remind Council members that Myanmar is still at a critical juncture of transition to fully functioning democracy. Mr. Darusman has said patience will not help Myanmar's democratization, but the opposite is true. It is not by revolution that we are building democracy. Our leader, State Counsellor Daw Aung San Suu Kyi, has chosen a peaceful path through national reconciliation and national consensus, which require tremendous patience and political wisdom. The Special Envoy of the Secretary-General on Myanmar, Ms. Christine Burgener, in her end-of-mission statement to Myanmar on 20 October, stressed the need for patience and more trust-building to advance the peace process towards a home-grown solution. We concur fully with the Special Envoy. Patience and trust-building are key to the success of our common efforts to find a viable and sustainable solution to the present humanitarian crisis and the whole issue of northern Rakhine. That is the way to lead us to realizing our ultimate national goal of building a truly democratic federal union.

Before I conclude, I would like to bring to the Council's attention an act of gross contempt of all ethics and civility on the premises of the United Nations. I am sorry to raise this issue, but yesterday pamphlets concerning my country — which I am holding — were distributed in Conference Room 1, where the Third Committee was holding its plenary session to hear an oral presentation by the Special Rapporteur on the situation of human rights in Myanmar, Ms. Yanghee Lee, and the Chairperson of the fact-finding mission, Mr. Darusman.

This is not the work of a disgruntle dissident or a human rights activist who does not care about rule and regulations. This is the act of a Chairperson of an international fact-finding mission who was appointed and mandated by the Human Rights Council, one of the subsidiary bodies of the General Assembly. We cannot fathom how such hypocrisy can have a place in this world body. This is a disgrace to the United Nations. These pamphlets are a total insult to a Member of the United Nations and its sitting leaders. It is a gross violation of the codes of conduct of United Nations

personnel. My Government has condemned this action in the strongest terms. Hate speech and provocation are now coming right into the United Nations conference rooms, where we should all work together for peace, harmony and tolerance.

Everyone has to be accountable for his or her actions. History will judge individuals based on what they have said and done in the Council Chamber and in the United Nations. The people of Myanmar — and no one else — will decide their destiny.

**The President** (*spoke in Spanish*): I now give the floor to the representative of Bangladesh.

**Mr. Bin Momen** (Bangladesh): We thank you, Mr. President, for giving us an opportunity to speak. We appreciate the efforts by nine Council members to organize this briefing by Mr. Marzuki Darusman, Chairperson of the independent international fact-finding mission on Myanmar.

As far as Bangladesh is concerned, our overriding priority in the Rohingya humanitarian crisis is to ensure the voluntary and sustainable return of the forcibly displaced Rohingya to their ancestral homes in safety and dignity. Bangladesh can have no interest served by forestalling the repatriation and allowing the crisis to become protracted with a growing Rohingya population of 1.1 million. Accordingly, we have agreed to commence repatriation of the rather small number of individuals so far verified by the Myanmar authorities at the earliest opportunity. After all, we painstakingly negotiated every element in the bilateral arrangements concluded between our two Governments, and we would wish to see our Myanmar counterparts adhere to those provisions.

We have consistently maintained that as long as the forcibly displaced Rohingya voluntarily opted for return to Rakhine state and gained confidence about an environment conducive to their return, Bangladesh would put in place all possible arrangements to facilitate that process. At the ministerial meeting held last month among China, Bangladesh and Myanmar in the presence of the Secretary-General and his Special Envoy on Myanmar, our delegation made our position on that abundantly clear.

We recall that we proactively enlisted the support of the Office of the United Nations High Commissioner for Refugees (UNHCR) for facilitating the verification process for return, and we welcomed reports on Myanmar's memorandum of understanding with the United Nations Development Programme and UNHCR to gather an objective assessment of the situation on the ground in Rakhine state. We have also stressed that dismantling the remaining camps for internally displaced persons in Rakhine state and allowing those stranded along the border between our two countries to return without fear of reprisal could be critical confidence-building measures.

Along these lines, our Prime Minister, Sheikh Hasina, presented a three-point recommendation in the margins of the General Assembly's general debate last month. First, Myanmar must abolish discriminatory laws, policies and practices against Rohingyas and address the root causes of forced displacement in a genuine and timely manner. Secondly, Myanmar must create a conducive environment by building trust and guaranteeing protection, rights and a pathway to citizenship for all Rohingyas. If needed, it should create a safe zone inside Myanmar to protect all civilians. Thirdly, it must prevent atrocity crimes against Rohingyas in Myanmar by ensuring accountability and justice, particularly in light of the recommendations of the independent international fact-finding mission on Myanmar of the Human Rights Council. This, we believe, constitutes the minimum requirement for creating a situation that can be considered favourable to the Rohingyas' sustainable return to Myanmar, and accountability remains an integral part of it.

The evidence-based information and thorough contextual analysis provided by the fact-finding mission report (A/HRC/39/64) have validated what we had logically assumed from the first-hand accounts we had heard from the forcibly displaced Rohingya in Bangladesh. Our highest political leadership had no doubt that the violence and persecution suffered by the Rohingya were tantamount to the gravest crimes under international law. Our Prime Minister spoke with full responsibility when she termed the crimes as genocide, crimes against humanity and ethnic cleansing in her addresses to the General Assembly at its seventy-second (see A/72/PV.14) and seventy-third sessions (see A/73/PV.11).

The fact-finding mission has done an invaluable service to history and humanikind by furnishing its accounts in meticulous detail and by providing substantive reasoning for its conclusions. Considering the report's reliance on multiple sources and credible evidence, we find its conclusion to be compelling and

unambiguous — the crimes against the Rohingya in Rakhine State were committed by Myanmar security forces with "genocidal intent", while war crimes and crimes against humanity were committed in Rakhine, Kachin and Shan States.

The question of accountability is therefore gaining precedent. The perpetrators have been identified among all those involved, including certain non-State actors. It is critical that they all be held accountable for the crimes they committed against innocent civilians. The Rohingya have long been dehumanized by the Myanmar authorities, but not to the extent that the international community should absolve itself of its responsibility to seek justice for them. The resounding plea of the Chairperson of the fact-finding mission should continue to echo beyond the four walls of this Chamber.

Having said that, we believe that it is the primary responsibility of the State concerned to ensure justice for such atrocity crimes. The State of Myanmar has made repeated commitments to this effect and commissioned certain mechanisms that eroded the international community's confidence in any credible domestic efforts to secure accountability. The current commission of inquiry is expected to present its finding in a year's time, even as it provides modest assurance to the Rohingya living in a climate of impunity for near perpetuity.

Despite all prognoses otherwise, we will wait for an independent and impartial judicial process to emerge in Myanmar. We would consider this to be a critical building block for democratic consolidation and intercommunal reconciliation in Myanmar. The fact-find mission's report has offered a mirror to Myanmar society for the purposes of introspection and mending the fractures running through its fragile democratic polity. An honest reckoning with the report should promote further cohesion within society, provided there is sufficient political will to make that happen.

The Human Rights Council has acted appositely on the fact-find mission report, and decided on its second iteration, while mandating the establishment of an ongoing investigation mechanism to collect, consolidate, preserve and analyse evidence of the most serious international crimes and violations of international law committed in Myanmar since 2011. Any criminal justice mechanism, be it national, regional or international, would have access to an authoritative and comprehensive body of evidence for exercising its jurisdiction. In case of repeated obstruction to justice at the domestic level, the international community may have to consider good practices from comparable situations and other possible means to pave the pathway to accountability.

In the face of such glaring evidence of crimes as presented by the fact-finding mission, the Security Council has yet another historic responsibility before it to do the right thing. In order to pre-empt the possible recurrence of such crimes in Myanmar and elsewhere, the Security Council should, as a first step, give due consideration to the possibility of adopting a resolution. It would be an affront to the victims to relegate the action on the fact-find mission report solely to the General Assembly.

Considering the trauma borne by countless Rohingya men, women and children, the international community should seriously consider setting up a trust fund for victims, pending a judicial decision on their reparation or compensation. As a State party to the Rome Statute, Bangladesh would cooperate with the International Criminal Court in pursuance of its jurisdiction on the forced deportation of the Rohingya from Myanmar's Rakhine state, including the possible denial of their right to return. We shall also continue to reach out our hands to our neighbours in Myanmar in our shared quest for a sustainable future for our peoples in rights and dignity.

The Council's decision today to hear the briefing by the fact-find mission Chairperson has reinforced yet again this Chamber's standing as the world's last resort for upholding the causes of humanity and justice. We reiterate our call on the Council to act as the custodian of the Rohingya humanitarian crisis until the time a durable solution is reached.

*The meeting rose at 5.45 p.m.*